

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

ALTERRA AMERICA INSURANCE CO.,

Plaintiff,

- against -

NATIONAL FOOTBALL LEAGUE, ET AL.,

Defendants.

Index No. 652813/2012 E

Hon. Jeffrey K. Oing

**CASE MANAGEMENT
ORDER**

DISCOVER PROPERTY & CASUALTY COMPANY, ET AL.,

Plaintiffs,

- against -

NATIONAL FOOTBALL LEAGUE, ET AL.,

Defendants.

Index No. 652933/2012 E

Hon. Jeffrey K. Oing

It is hereby ORDERED that disclosure shall proceed as follows:

(1) BILL OF PARTICULARS (See CPLR 3130(1)) AND AMENDED PLEADINGS:

- a. Demand for bill of particulars shall be served by N/A on or before N/A.
- b. Bill of particulars shall be served by N/A on or before N/A.
- c. Amendments to pleadings:
 - i. Any amendments to original plaintiffs' complaints shall be filed no later than December 2, 2016.
 - ii. Any outstanding responsive pleadings, amendments to responsive pleadings, and responses to amended pleadings shall be filed no later than January 6, 2017, except that it is agreed that leave shall be freely granted to the NFL Parties to further amend any such pleading in the future to add

a claim for breach of the duty to indemnify in the event any underlying settlement or judgment becomes final.

- iii. Any replies to a response to amended pleadings filed pursuant to section (ii) above shall be filed no later than January 27, 2017.

(2) LIAISON COUNSEL:

- a. Christopher Carroll was designated liaison counsel for the Insurer Parties during the parties' July 21, 2016, conference call with the Court.
- b. The role of liaison counsel is not intended to preempt the rights of any Insurer Party, but is rather intended to ease the burden and potential delays of communications between the Insurer Parties and the NFL Parties. It is expected that liaison counsel will work out the logistics of reporting to the Insurer Parties and seeking consensus from the Insurer Parties on procedural matters.

(3) DOCUMENT PRODUCTION:

- a. Demands for discovery and inspection shall be served by all Parties¹ no later than February 1, 2017. The Insurer Parties shall use best efforts to coordinate their requests such that multiple parties are not serving the NFL Parties with substantially similar or overlapping requests.
- b. The Parties shall confer pursuant to Commercial Division Rule 11-b regarding the scope of the applicable privilege review no later than March 15, 2017.

¹ The term "Parties" refers to National Football League, NFL Properties, LLC, and the insurance companies currently named in Appendix A. "Parties" will also include any other person or entity that may be brought into this action subsequent to the entry of this Preliminary Conference Order. The Parties, having conferred, anticipate that a small number of additional insurers of the NFL Parties may be added, but otherwise do not anticipate any additional parties.

- c. Responses to demands for discovery and inspection shall be served by all Parties no later than March 3, 2017.
- d. Responsive documents shall be produced as required by the applicable rules and may be produced on a rolling basis. However, the Parties shall complete their respective document productions by no later than June 2, 2017.

(4) INTERROGATORIES & REQUESTS FOR ADMISSION:

- a. Initial Interrogatories may be served by all Parties by February 1, 2017. The Insurer Parties shall use best efforts to coordinate their interrogatories such that multiple parties are not serving the NFL Parties with substantially similar or overlapping interrogatories.
- b. Answers to initial interrogatories shall be served by all Parties no later than March 3, 2017.
- c. Pursuant to Rule 11-a(b) of the Commercial Division Rules, initial interrogatories are limited to the following topics: name of witnesses with knowledge of information material and necessary to the subject matter of the action, computation of each category of damage alleged, and the existence, custodian, location and general description of material and necessary documents, including pertinent insurance agreements, and other physical evidence.
- d. Pursuant to Rule 11-a(d) of the Commercial Division Rules, at the conclusion of other discovery, and at least 30 days prior to the discovery cut-off date, interrogatories seeking the claims and contentions of the opposing party may be served unless the Court orders otherwise.

- e. The parties may serve requests for admission at any time after January 27, 2017.

(5) DEPOSITION ON ORAL QUESTIONS:

- a. Except for a showing of good cause (such as the infirmity, retirement or anticipated unavailability of a particular fact witness), the Parties will not commence fact depositions until April 10, 2017.
- b. Assuming that the completion of paper discovery (and resolution of any related disputes and/or motion practice) proceeds as outlined above, deposition(s) of the fact witnesses shall be completed by March 30, 2018.²
- c. The Parties agree that the NFL Parties may collectively take 50 depositions of fact witnesses and the Insurer Parties may collectively take 50 depositions of fact witnesses and will use reasonable efforts to stay within these limits. However, the Parties acknowledge that, as discovery proceeds, there may be a need for additional depositions and shall work together to reasonably accommodate such additional depositions. If a dispute on the number of depositions cannot be resolved, the Parties reserve the right to make an application to the Court seeking additional depositions for good cause shown. Depositions of third-party record keepers or custodians seeking production and authentication of documents do not count towards the numerical limits contemplated in this paragraph.
- d. Pursuant to Commercial Division Rule 11-d, the Parties will strive to keep depositions limited to 7 hours per deponent to the extent feasible. However,

² The term "fact witnesses" includes Party witnesses and any non-party witnesses who might be served with a notice of deposition or subpoena based on their factual knowledge.

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given the nature of the case and the large number of Parties involved, the Parties will be flexible and may agree to a longer period of examination for a specific witness. To the extent no agreement can be reached, any Party may petition the Court for additional time for good cause shown.

- e. The Insurer Parties and the NFL Parties shall work cooperatively and in good faith to facilitate a reasonable deposition schedule and minimize burdens on the Parties and the witnesses.

(6) OTHER DISCLOSURE:

- a. Assuming that the completion of fact discovery (and resolution of any related disputes and/or motion practice) proceeds as set forth above, the following schedule shall apply for expert disclosures.
- b. The Parties shall serve any expert reports by April 13, 2018.
- c. The Parties shall serve any rebuttal expert reports by June 15, 2018.
- d. Depositions of any expert witnesses shall take place by August 17, 2018.

(7) If a motion relating to disclosure has raised additional disclosure issues, the parties shall:

Submit periodic status reports to update the Court on any disclosure issues that may arise and potentially impact this schedule (see ADDITIONAL DIRECTIVES below).

(8) COMPLIANCE CONFERENCE: March 7, 2017 at 10:00 AM.

(9) END DATE FOR ALL DISCLOSURE: TBD

(10) MOTIONS: Any dispositive motion(s) shall be made on or before 45 days from the filing of the note of issue.

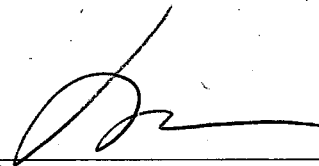
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(11) NOTE OF ISSUE: Plaintiffs shall file a note of issue/certificate of readiness on or before: TBD.

THE DATES SET FORTH HEREIN MAY BE ADJOURNED VIA STIPULATION
AMONGST THE PARTIES OR BY APPROVAL OF THE COURT.

SO ORDERED:

Dated: 11/14/16



, J.S.C.

JEFFREY K. OING
J.S.C.

ADDITIONAL DIRECTIVES

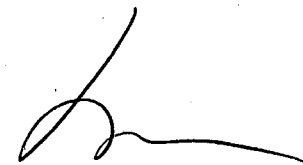
The Parties shall confer regarding Part 48 Rule 13 and submit a proposed Electronic Discovery Order by January 30, 2017.

Nothing in this Preliminary Conference Order shall limit any Party's right to move for discovery under the applicable rules of civil procedure, unless contrary to a provision of this Preliminary Conference Order.

The deadlines herein may be adjourned by the Court for good cause shown.

SO ORDERED:

Dated: 11/14/16



, J.S.C.

JEFFREY K. OING
J.S.C.